

stitute for Senate bill No. 1, a bill to be entitled "An act to further regulate the creations and proceedings of private corporations, by amending articles 568 and 570 of the Revised Statutes, and making an additional article, to be known as article 574a."

Senator Terrell offered the following amendment:

Add to sub-division 26, section 1, the following: "But no private corporation shall hereafter acquire title to real property in this State exceeding in amount six hundred and forty acres, except under laws enacted heretofore, and for services or public works done in pursuance thereof."

Senator Gibbs offered the following amendment to amendment of Senator Terrell:

Amend by inserting "county" instead of "State," and add "unless it is necessary to carry on some business in which the land is actually used."

Both of the above amendments pending on adjournment.

A message was received from the House announcing the passage, by that body, of House bill No. 257, entitled "An act to amend article 117, section 4, chapter 1, title 8, of the Revised Statutes of Texas, providing for the maintenance of lunatics by the commissioners' court, when they cannot be admitted in the asylum."

The President then had the following communication read by the Secretary:

INSTITUTE FOR THE BLIND,
AUSTIN, February 16, 1883.

Hon. Marion Martin, Lieutenant-Governor:

DEAR SIR:—Please be kind enough to invite the honorable Senators and their officers to be present at an exhibition, which will be given by the pupils at the Blind Institute to-night. The exercises will begin at 8 o'clock. No charge for admission for any others the Senators may choose to invite.

Respectfully,

FRANK RAINEY,
Superintendent Institute for the Blind.

Senator Houston, in order that the committees might consider important matters to-morrow and report Monday, moved that the Senate adjourn until Monday morning at 10 o'clock.

Adopted.

THIRTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, February 19, 1883. }

Senate met pursuant to adjournment.

Lieutenant-Governor Martin in the chair.

Roll called. Quorum present.

Prayer by the Chaplain, Rev. Dr. Smoot.

On motion of Senator Martin, the reading of the journal of Friday was dispensed with, and the same adopted.

Senator Randolph presented a petition from the citizens of Madison county, asking that the law enacted at the called session of the Seventeenth Legislature, reducing passenger fare to three cents per mile, remain and not be repealed, and respectfully asking that laws be enacted to prevent discrimination against persons and places in carrying freight, etc., and suggesting that such legislation be had as will be just to the railroads and just to the people.

Referred to Committee on Internal Improvements.

Senator Jones presented a memorial from the commissioners' court of Harris county, praying for the repeal of section 1, chapter 9, of the acts of 1881.

Referred to Judiciary Committee No. 2.

Also, a memorial of blacksmiths and carriage makers, to the Legislature, praying for the passage of a law giving a lien on articles made or repaired by them.

Referred to Judiciary Committee No. 2.

Senator Traylor, chairman of Committee on Claims and Accounts, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Claims and Accounts, to whom was referred Senate bill No. 253, entitled "An act for the relief of W. S. Anderson, providing for the refunding by the State of certain taxes illegally collected," have carefully examined the same, and a majority of your committee instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

TRAYLOR, Chairman.

Bill read first time.

Senator Davis, for Judiciary Committee No. 1, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 16, 1883.

Hon. Marion Martin, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate bill No. 282, entitled "An act to authorize the Attorney-General to procure an official seal for the use of his department," have carefully examined the same, and instruct me to report back the accompanying substitute, and recommend that such substitute do pass.

All of which is respectfully submitted.

DAVIS, for Committee.

Bill read first time.

Senator Davis, chairman of Committee on Education, submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Education, to whom was referred Senate bill No. 188, entitled "An act to amend section 3 of 'an act to establish a State normal school,' approved April 21, 1879," have carefully examined the same, and instruct me to report the same back with the recommendation that it do not pass.

All of which is respectfully submitted.

DAVIS, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Education, to whom was referred Senate bill No. 205, entitled "An act relating to teachers' certificates of qualification," have carefully examined the same, and instruct me to report back the accompanying substitute, and to recommend that such substitute do pass.

All of which is respectfully submitted.

DAVIS, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Education, to whom was referred House bill No. 22, entitled "An act to authorize and require the county commissioners' courts of the several counties in the State to provide for the payment of all claims due teachers of public free schools, audited as valid claims under acts of the Legislature of Texas, approved August 7, 1876, or April 23, 1879," have carefully examined the same, and instruct me to report the same back with the recommendation that it lie on the table, to await action of Senate bill No. —, which has for its object the same result.

All of which is respectfully submitted.

DAVIS, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Education, to whom was referred Senate bill No. 187, entitled "An act to establish the Sterling Robertson Normal School," have carefully examined the same, and a majority of your committee instruct me to report it back with the recommendation that it do pass.

All of which is respectfully submitted.

DAVIS, Chairman.

Bill read first time,

The following minority report, on Senate bill No. 187, was submitted:

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marlon Martin, President of the Senate:

The undersigned, members of your Committee on Education, to whom was referred Senate bill No. 187, having for its object the establishment of a normal school at Salado, in Bell county, to be styled the Sterling Robertson Normal School, dissent from the majority, who have reported said bill favorably, and respectfully recommend that said bill lie on the table. If the bill should become a law it would diminish the public school fund, which is notoriously insufficient. Normal schools can be established and maintained only out of the public school fund. If they are beneficial or necessary to a public school system, we should wait till our Constitution is amended, and the school fund is increased, so as to admit of a perfect school system, and then establish such normal schools as may be required. To use the school fund at this time for normal schools is but to take it from the primary schools, that need it most, and apply it to the purposes for which there is no such pressing need.

The effect of this act will be to take from the many children within the scholastic age, who are not eligible to places in the normal school, and give to the few who aspire to be teachers and who are not entitled to the benefit of the free school fund. It will be to take from the foundation and groundwork of the structure of our common school system to ornament and elaborate the superstructure. The aid extended by the trustees of the Peabody fund to the Sam Houston Normal School, at Huntsville, will, in all likelihood, be diminished hereafter, and the deficiency thereby created it will be necessary to make up from the common school fund; and when to this, in the present condition of that fund, and with the present limit of taxation, is added the expense of another normal school, the drain upon the common school fund will be very serious, and materially affect the interests of those for whose benefit the free school fund was intended.

DAVIS,
GETZENDANER.

Senator Gooch, for Committee on Public Lands, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marlon Martin, President of the Senate:

Your Committee on Public Lands, to whom was referred resolutions of instructions directing them to report a bill for selling and leasing the school lands, have carefully examined the same, and instruct me to report the accompanying bill with the recommendation that it do pass.

All of which is respectfully submitted.

GOOCH, for Committee.

Bill read first time, and 100 copies ordered printed.

Senator Martin, chairman of Committee on Engrossed Bills, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marlon Martin, President of the Senate:

Your Committee on Engrossed Bills have carefully examined and compared Senate bill No. 136, being "An act to protect hog raising in the State of Texas."

Also, Senate joint resolution No. 15, to amend section 9, article 8, of the Constitution of the State of Texas, and find the same correctly engrossed.

MARTIN, Chairman.

Senator Cooper, chairman of Committee on Enrolled Bills, submitted the following report.

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marlon Martin, President of the Senate:

Your Committee on Enrolled Bills have carefully examined and compared Senate bill No. 39, being "An act to amend articles 314 and 315, chapter 3, title 9, of the Penal Code of the State of Texas," and find the same correctly enrolled, and have this day, at 11:10 o'clock a. m., presented the same to the Governor for his approval.

COOPER, Chairman.

Senator Gibbs, chairman of Committee on Constitutional Amendments, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 17, 1883.

Hon. Marlon Martin, President of the Senate:

Your Committee on Constitutional Amendments, to whom was

referred Senate joint resolution No. 23, amending section 10, article 11 of the Constitution, so as to authorize incorporated cities and towns and counties and school districts or communities, under certain circumstances, to levy and collect a special ad valorem tax for the support of public free schools, in addition to the pro rata available school fund received from the State, have carefully examined the same, and a majority of the committee instruct me to report back the accompanying substitute, and to recommend that the substitute do pass.

All of which is respectfully submitted.

GIBBS, Chairman.

Resolution read first time.

The following minority report was also submitted:

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. Marlon Martin, President of the Senate:

The undersigned, members of your Committee on Constitutional Amendments, dissent from the majority, and respectfully recommend the adoption of the accompanying substitute for Senate joint resolution No. 23.

Unless a public school system is thorough and adapted to the wants and condition of the entire people, it will, soon or late, result in failure. Texas being the largest State in the Union, has not only a greater diversity in soil, climate and natural resources than can be seen elsewhere, but a still greater diversity in the habits, characters, disposition, condition and pursuits of the people. It is with increasing difficulty that we can shape laws to meet the wants of every section of the State, and, of all things, we meet with the greatest trouble in forming a school system for the whole State. It is impossible to fix any uniform and unyielding rules that will work well in all sections and not give rise to much just cause of complaint. We have the cities, towns and villages demanding schools for at least ten months in the year, and numerous thickly settled and prosperous country communities making the same demand. There are other communities qually prosperous who have useful employment for their children, and do not desire schools for such long terms, and much sparsely settled country, in which it is almost impossible to maintain schools at all. Most of these conditions can be found in the same county. The State should not attempt to maintain schools for ten months in the year, for that is much more than the bulk of the communities demand, and would be a needless waste of public money. All should be taxed only so far as all are benefited.

If, from a common fund, schools are maintained from five to six months in a year, it will be as long as beneficial to the whole people, and as far as we can go without a needless waste of money. Such communities as demand and need longer schools should be allowed to have them, but they should not be a burden upon the whole people, for all are not benefited. When a community has received its pro rata of the public school fund, if it needs and demands longer schools, it should have the right to tax itself for that purpose. The people are the government; they must be trusted in everything else, and can be safely trusted in their own affairs. Schools cannot be sustained without their aid, support and sympathy; and communities that need longer schools should be trusted and encouraged to take hold of the public school system where the State leaves off, and push it to its greatest possible degree of perfection.

Government must have the earnest support and co-operation of the people in everything that it prosecutes successfully for the public good. The framers of the present Constitution, to a limited extent, appreciated this fact, and allowed incorporated cities and towns to tax themselves to supplement their pro rata of the school fund. The result is, no complaint against the present school system comes from cities and towns. They are maintaining schools that do credit to their liberality and public spirit, but if not, they have none to blame but themselves. If similar rights had been conferred upon country communities, there would now be no demand for change. In order to render the school system flexible and adapted to the wants of the entire people, and in order to avoid the dissension that would arise between communities demanding longer terms and those claiming that shorter ones are sufficient, every county should be divided into school districts, and each district that wishes to maintain schools for a longer term than from five to six months, should have the right to tax itself to supplement its pro rata of the school fund. The safest power to divide the county into districts is the commissioners' court. Its members come from different sections of the county, are elected by the people, and directly responsible to them for their acts. The right to say where and what tax should be levied should be left to the freeholders of the district. They are the permanent residents of the district, interested in its prosperity, its schools, and general welfare, and can certainly be trusted not to impose unnecessary taxes upon themselves. To still further guard against abuse, and the pos-

sibility, not the probability, of people acquiring a small interest in land in order to vote, let the right to vote depend upon the ownership of lands of the value of three hundred dollars, or some such amount. It is not sound logic to say that because in towns and cities all tax payers may vote, that therefore all should vote in the country. We should not seek to furnish the country with the same system that towns have, but if possible, a wiser, a safer, and better guarded system. The man who goes from post to pillow, without property to tax, should not be armed with the power to levy tribute upon the widow's farm. In the country, too, most all of the permanent, substantial citizens are either freeholders, or will be, but not so in the cities and towns. After this, and to still further guard against any possible abuse, the tax should never exceed one fourth of one per cent, which, in connection with the pro rata of the school fund, will be ample to sustain schools for ten months in the year. Thus hedged it against almost the possibility of abuse, the district system need not be feared by any section, however unfortunately situated, and would result in incalculable benefit to the State, and remove all just cause of complaint against our public school system. Even the most conservative of our people would support it, and the friends of popular education would see it ratified at the polls.

The majority—not the majority of the committee, but of the ten members who happened to be present—wish to make our school system flexible and expansive by an amendment to the Constitution, as follows:

"The county commissioners' court, or other competent authority, may, in such manner as may be prescribed by law, general or special, divide their counties into school districts. An annual ad valorem tax may be levied and collected in such manner as may be prescribed by law, within school districts, to aid in the support and maintenance of public free schools in the districts, and for the erection of school buildings therein, not to exceed twenty-five cents on the one hundred dollars valuation, if, at an election held for that purpose, two-thirds of the property taxpayers and qualified voters vote in favor of such tax of twenty-five cents on the one hundred dollars, or for any specific per cent less than that amount."

For the sake of harmony, we might waive our objection to the right of the rover with the mustang pony to levy tribute upon the widow's farm which this amendment proposes. Our desire to accomplish something for our school interest might induce us to overlook the uncertainty in the amendment in reference to who shall vote the tax after the district is laid off—the voters of the district interested, or the voters of the whole county. Knowing that it is the opinion of one, and perhaps more, of the majority, that after the county is laid off into districts, the whole county should vote upon the right of a particular district to levy a tax and the amount of such tax, there seems to us to be method in the vagueness of the language used. But there are other objections to the amendment that we cannot overcome, and that constrain us to oppose it, even at the risk of accomplishing nothing at this session in this respect for the school interest, for we regard the proposed amendment as worse than nothing.

Should the proposed amendment be adopted, what right has the community desiring longer schools obtained? The right to go into politics, attend political conventions, pass resolutions, to go to the Legislature, and try to induce it, by general or by special law, to authorize the commissioners' court, or some other competent authority, to divide the county into districts, and to provide some way of settling, either by vote of the whole county or by a part of it, whether the inhabitants of a particular district should be allowed the poor privilege of taxing themselves to educate their children. Those who have tried to accomplish something for education in the Legislature best known what a poor privilege this is. We now have the right to beseech the Legislature to submit a proper amendment to the Constitution, and it is the best right of the two. The proposed amendment would confer upon the Legislature the right to interfere with the local affairs of communities that concern no one out of the district. If a community in Grayson county desiring longer schools, are willing to tax themselves for the purpose, why should they be forced to go to Austin and obtain the consent of the Senators and Representatives from the coast and the Mexican border, and the approval of the Governor?

In the convention of 1875 there was a minority, who, under the pretense of protecting counties not having Democratic majorities, wanted every officer in the State down to constable appointed by the Governor, so that the party in power could fill every office, however small with men of its political opinions. Our representatives who defeated this measure deserve the lasting gratitude of mankind. The counties could never afford to have their officers appointed by power at Austin and placed above responsibility to the people. Besides, in the course of time the "chickens would come home to roost." After one of the political revolutions that sometimes occur in all countries, other counties would have their local offices filled

with men of a political faith different from that of the people whom they were appointed to serve. The people should never, under any circumstances surrender their right to control their own local affairs. Who may this "competent authority," that the proposed amendment speaks of, be? Is he to be appointed, elected, selected from among us, or imported from abroad? It will be better to wait for two years longer than to submit the amendment now. Two years is but a moment in the life of a State. The cause of education is gaining strength every day. In two years we are satisfied we can obtain what the people demand. It is better to wait, to contend and to struggle for what is right, than to accept a miserable compromise, worse than nothing, that would still further embarrass and cripple the cause of education.

All of which is respectfully submitted.

DAVIS,
GETZENDANER,
MATLOCK,
GIBBS.

Senator Gibbs, chairman of Committee on Constitutional Amendments, also submitted the following reports:

COMMITTEE ROOM,
AUSTIN, February 17, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Constitutional Amendments, to whom was referred Senate joint resolution No. 17, "Amending article 5 of the Constitution of the State," have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

GIBBS, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 17, 1883.

Hon. Marion Martin, President of the Senate:

Your Committee on Constitutional Amendments, to whom was referred Senate joint resolution No. 16, amending section 8, of article 7 of the Constitution, have carefully examined the same, and instruct me to report the same back with the recommendation that it do pass, with the following amendment:

In place of the word "distribute" insert the word "apportion," and after the word "counties" insert "and shall exercise such powers and perform such duties as shall be provided by law."

All of which is respectfully submitted.

GIBBS, Chairman.

Bill read first time.

Senator Houston, for Committee on Constitutional Amendments, submitted the following report:

COMMITTEE ROOM,
AUSTIN, February 8, 1883.

Hon. C. R. Gibson, Speaker of the House of Representatives:

Your Committee on Constitutional Amendments, to whom was referred Senate joint resolution No. 28, entitled "An amendment to section 16, article 3, of the Constitution, abolishing secret sessions of the Senate," have carefully examined the same, and a majority of your committee instruct me to report the same back with the recommendation that it do not pass.

All of which is respectfully submitted.

HOUSTON, for Committee.

Senate joint resolution read first time.

Senator Jones introduced a bill to be entitled "An act to amend articles 3184 and 3185, and add thereto article 3185a."

Referred to Judiciary Committee No. 2.

Also, a bill to be entitled "An act to amend article 4258 of the Revised Civil Statutes of Texas."

Referred to Judiciary Committee No. 2.

Also, a bill to be entitled "An act to repeal an act entitled 'an act to prohibit railroad companies, their officers, agents and employees from making excessive charges for carrying and transferring freight, goods, wares and merchandise, and to require said companies, their officers, agents and employees to deliver freight, goods, wares and merchandise, on the payment of the freight charges due, as shown by the bill of lading, and to provide penalty for the violation of this act.'"

Referred to Judiciary Committee No. 2.

Also, a bill to be entitled "An act to amend an act entitled 'an act to amend section 46 of an act to encourage stockraising, and for the protection of stockraisers, approved August 23, 1876,' approved April 22, 1879, and to provide for the appointment of an inspector of hides and animals in Harris county."

Referred to Judiciary Committee No. 2.

Senator Evans, by request, introduced a bill to be entitled "An act to amend article 341 of the Penal Code of the State of Texas."

Referred to Judiciary Committee No. 2.

Senator Farrar introduced a joint resolution amending section 2, of article 10, of the Constitution of the State of Texas.

Referred to Committee on Constitutional Amendments.

Senator Cooper introduced a bill to be entitled "An act to require the Commissioner of the General Land Office to issue to Sarah E. Hulet a patent to 440 acres of land in Tyler county."

Referred to Committee on Private Land Claims.

Also, a bill to be entitled "An act to amend article 3705 of the Revised Civil Statutes of Texas."

Referred to Committee on Public Education.

Senator Gibbs introduced a resolution requesting our Senators and Representatives in Congress to vote for what is known as the "Blair bill," increasing the facilities for educating the colored youths of the South.

Referred to Committee on Public Education.

Senator Fleming introduced a bill to be entitled "An act to create and establish the land districts of Shackelford, Jones and Nolan."

Referred to Committee on Public Lands.

Senator Fleming introduced the following resolution:

Be it resolved, That Judiciary Committee No. 1 be instructed to inquire whether or not there is any remedy at present, or any court having jurisdiction of contested election cases, and, if not, whether, under the Constitution of the State, any tribunal now in existence can be empowered to hear and determine such cases, and if not, whether any special tribunal can be created for that purpose, and that they report by bill or otherwise.

Adopted.

Senator Davis introduced a Senate joint resolution to ascertain if the contract for the erection of the new State Capitol cannot be amended on terms advantageous to the State.

Referred to Committee on Public Buildings and Grounds.

Senator Fleming offered the following resolution:

WHEREAS, During the year 1882 the people of the town of Albany, in Shackelford county, Texas, were afflicted with a small-pox epidemic, that threatened to spread over the entire county and other counties of that section; and whereas, in order to prevent the extension of the disease it was necessary for the authorities of said county to establish a quarantine, and to purchase a pest-house, and to employ guards and nurses to wait on and care for the sick, and bury the dead, and to purchase provisions and medicines necessary for the afflicted, and for which said county paid out a large sum of money; and whereas, said county ought to be reimbursed for said expenditure; therefore, be it

Resolved, That the Committee on Finance be required to examine the sworn account of the county judge of said county, submitted herewith, and that they enquire and report, by bill or otherwise, whether such amount should be paid by the State.

Adopted, and accompanying documents referred to Committee on Finance.

The President referred the following House bills and concurrent resolutions:

House concurrent resolution in reference to visiting the grave of Ben Milam.

Referred to Committee on State Affairs.

Also, House concurrent resolution instructing our Senators and requesting our Representatives in Congress to

prevent the removal of troops and the abandonment of military post on the Rio Grande frontier.

Referred to Committee on Military Affairs.

Also, House bill No. 21, "An act to provide for the surrender of charters of incorporated cities and towns in this State, to authorize the counties wherein said cities or towns are situated to become their successors, and to confer such powers on the county commissioners' court as may be necessary for the government and well being of said cities and towns."

Referred to Committee on State Affairs.

Also, House bill No. 251, "An act to amend article 111, section 4, chapter 1, title 8, of the Revised Civil Statutes of the State of Texas."

Referred to Committee on Asylums.

Senator Farrar presented a petition against the organization of the county of Richland; from the people of Limestone county.

Referred to Committee on Counties and County Boundaries.

On motion of Senator Jones, Senator Stratton was excused till Wednesday next.

On motion of Senator Gooch, Senator Matlock was excused for the week.

The President gave notice of signing Senate bill No. 39, "An act to amend articles 314 and 315, chapter 3, title 9, of the Penal Code of the State of Texas."

The unfinished business of Friday, being Senate bill No. 1, "An act amending section 570 of the Revised Civil Statutes, on private corporations," was taken up, the amendment of Senator Terrell pending, as amended by Senator Gibbs, with the words "in any one county" added after the word "acres."

Senator Terrell moved a call of the Senate.

Call sustained.

Roll called. Absent: Senators Cooper, Gibbs, Johnston of Shelby and Randolph.

The Sergeant-at-Arms was dispatched for the absent Senators, when Senate was announced full.

Senator Terrell's amendment was adopted by the following vote:

YEAS—16.		
Buchanan,	Getzendaner,	Peacock,
Chesley,	Gibbs,	Perry,
Evans,	Harris,	Randolph
Farrar,	Johnston of Shelby,	Terrell,
Fleming,	Martin,	Traylor.
Fowler,		

NAYS—9.		
Collins,	Gooch,	Jones,
Cooper,	Houston,	Kieberg,
Davis,	Johnson of Collin,	Pfeuffer.

Senator Davis offered a substitute for the pending bill and amendment.

Senator Terrell moved the previous question on the bill and substitute.

Motion seconded and main question ordered.

Senator Davis's substitute was lost, and bill ordered engrossed by the following vote:

YEAS—14.		
Buchanan,	Getzendaner,	Perry,
Chesley,	Gibbs,	Randolph,
Evans,	Harris,	Terrell,
Farrar,	Martin,	Traylor.
Fleming,	Peacock,	

NAYS—9.		
Collins,	Gooch,	Johnston of Shelby,
Davis,	Houston,	Jones,
Fowler,	Johnson of Collin,	Pfeuffer.

On motion of Senator Chesley, Senate bill No. 218, "An act to amend articles 1007 and 1008 of the Revised Civil Statutes of the State of Texas, approved February 25, 1879," was taken up out of its regular order, read second

time, committee amendment adopted, and bill ordered engrossed.

A message was received from the House announcing the passage of House bill No. 49, "An act to reorganize the twenty-fifth judicial district of the State of Texas, and to provide the times for holding the district courts therein."

Senator Martin moved to suspend the regular order of business to take up Senate joint resolution No. 15, "To amend section 9, article 8, of the Constitution of the State of Texas."

Adopted, bill taken up and read third time.

Senator Gibbs offered the following amendment:

Amend by adding, "and except as in this Constitution is otherwise provided."

Adopted by the following vote:

YEAS—21.

Buchanan,	Gibbs,	Martin,
Chesley,	Gooch,	Patton,
Collins,	Harris,	Peacock,
Cooper,	Houston,	Perry,
Fleming,	Johnston of Shelby,	Randolph,
Fowler,	Jones,	Terrell,
Getzendaner,	Kleberg,	Traylor.

NAYS—4.

Davis,	Johnson of Collin,	Pfeuffer.
Evans,		

Resolution adopted by the following vote:

YEAS—22.

Buchanan,	Gibbs,	Patton,
Chesley,	Gooch,	Peacock,
Cooper,	Harris,	Perry,
Davis,	Houston,	Pfeuffer,
Farrar,	Jones,	Randolph,
Fleming,	Kleberg,	Terrell,
Fowler,	Martin,	Traylor.
Getzendaner,		

NAYS—3.

Evans,	Johnson of Collin,	Johnston of Shelby.
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On motion on Senator Terrell, Senate bill No. 210, "An act to amend the Penal Code so as to provide for the punishment of those who, without authority, pull the bell cord of a railway train when the same is in motion," was taken up, read second time, and ordered engrossed.

On motion of Senator Davis, Senate bill No. 68, "An act to amend articles 3707 and 3733 of the Revised Statutes," was taken up, and committee amendment adopted.

Senator Davis moved to reconsider the vote by which the committee amendment was adopted.

Lost by the following vote:

YEAS—7.

Davis,	Harris,	Peacock,
Fleming,	Johnson of Collin,	Pfeuffer.
Gooch,		

NAYS—19.

Buchanan,	Getzendaner,	Martin,
Chesley,	Gibbs,	Patton,
Collins,	Houston,	Perry,
Cooper,	Johnston of Shelby,	Randolph,
Evans,	Jones,	Terrell,
Farrar,	Kleberg,	Traylor.
Fowler,		

Senator Terrell asked that the following reasons for voting "no" be spread upon the journal:

I vote "no" on the motion to reconsider, because to reconsider and increase to 18 years, the scholastic age, would destroy the school system, unless we had more money.

TERRELL.

Senator Traylor offered the following amendment:

Amend article 3707 by striking out "eighteen," and inserting "sixteen."

Adopted by the following vote:

YEAS—14.

Buchanan,	Gooch,	Pfeuffer,
Collins,	Johnston of Shelby,	Stratton,
Cooper,	Kleberg,	Traylor,
Evans,	Martin,	Mr. President.
Getzendaner,	Peacock,	

NAYS—13.

Chesley,	Gibbs,	Jones,
Davis,	Harris,	Patton,
Farrar,	Houston,	Perry,
Fleming,	Johnson of Collin,	Randolph.
Fowler,		

Senator Patton offered to amend by striking out "eight," where it occurs, and inserting "seven."

Lost by the following vote:

YEAS—12.

Chesley,	Harris,	Patton,
Davis,	Houston,	Peacock,
Fleming,	Johnson of Collin,	Pfeuffer,
Fowler,	Jones,	Randolph,

NAYS—14.

Buchanan,	Getzendaner,	Martin,
Collins,	Gibbs,	Perry,
Cooper,	Gooch,	Terrell,
Evans,	Johnston of Shelby,	Traylor.
Farrar,	Kleberg,	

Senator Jones moved to amend by striking out "sixteen" and inserting "seventeen."

Lost by the following vote:

YEAS—12.

Chesley,	Gibbs,	Jones,
Davis,	Harris,	Patton,
Fleming,	Houston,	Perry,
Fowler,	Johnson of Collin,	Randolph,

NAYS—14.

Buchanan,	Getzendaner,	Peacock,
Collins,	Gooch,	Pfeuffer,
Cooper,	Johnston of Shelby,	Traylor,
Evans,	Kleberg,	Terrell.
Farrar,	Martin,	

Senator Chesley offered the following amendment:

Amend by adding to the end of line 14 the following: "Provided, that where such census is taken by corporate authorities of such city or town, the same shall not be taken by the county assessor."

Adopted.

Senator Traylor offered the following amendment:

Amend article 3733 by striking out "eighteen," in line 10, and insert "sixteen."

Adopted, and bill, as amended, ordered engrossed by the following vote:

YEAS—16.

Chesley,	Gibbs,	Patton,
Collins,	Harris,	Perry,
Evans,	Houston,	Pfeuffer,
Farrar,	Johnson of Collin,	Randolph.
Fowler,	Jones,	Traylor.
Getzendaner,		

NAYS—10.

Buchanan,	Gooch,	Martin,
Cooper,	Johnston of Shelby,	Peacock,
Davis,	Kleberg,	Terrell.
Fleming,		

Senator Davis asked that the following reasons for voting "no," on the engrossment of the bill, be spread upon the journal:

I vote "no" on this bill, as amended, because to merely change the scholastic age, from eight to fourteen, to from eight to sixteen, is not what the people, at least in my section, demand. The votes upon the question are sufficient to convince any one that a majority of the Senate are opposed to any material change in the school law. It will be better to wait till another session, and trust to a more liberal sentiment in behalf of public education, than to accept an im-

material change, that will make it even more difficult to obtain in the future what the people of my section demand.

So far as I know, the demand in my section is almost universal for the scholastic age to be from six to eighteen. It is really the time during which the children should be allowed to attend school, and nothing short of that age will satisfy the people of my section.

W. O. DAVIS.

Senator Johnston of Shelby, chairman of Committee on Penitentiaries, submitted the following reports :

COMMITTEE ROOM,
AUSTIN, February 17, 1883.

Hon. Marlon Martin, President of the Senate:

Your Committee on Penitentiaries, to whom was referred Senate bill No. 238, "An act to amend section 1. of 'an act to provide for the organization of the State Penitentiaries, and for the more efficient management of the same,'" have carefully examined the same, and instruct me to report the same back with the recommendation that the same do pass.

All of which is respectfully submitted.

JOHNSTON, Chairman.

Bill read first time.

COMMITTEE ROOM,
AUSTIN, February 17, 1883.

Hon. Marlon Martin, President of the Senate:

Your Committee on Penitentiaries, to whom was referred Senate concurrent resolution No. 2, ratifying the leases of the penitentiaries of the State of Texas, have carefully examined the same, and a majority of your committee instruct me to report the same back with the recommendation that it do pass.

All of which is respectfully submitted.

JOHNSTON, Chairman.

Senator Gooch submitted the following minority report on the same resolution:

COMMITTEE ROOM,
AUSTIN, February 19, 1883.

Hon. C. R. Gibson, Speaker of the House of Representatives:

Your Penitentiary Committee have had under consideration Senate concurrent resolution No. 2, entitled "Concurrent resolution ratifying penitentiary leases."

A majority recommend its passage.

The undersigned members of the committee are opposed to the ratification of the lease, and are in favor of the State resuming direct control and management of its penitentiaries and convicts.

In view of the magnitude of the questions and interests involved, and the fact that we differ with the majority of the committee, induces us to present our views at greater length than we would otherwise do.

The first enquiry is, viz.: If, in our judgment, the lease-contracts are unwise on the part of the State, are we justified in declining to ratify them?

The statute authorizing the lease provided that "every lease shall be subject to the approval or revocation of the first Legislature thereafter convened." (Sec. 72, laws 1881, p. 48.)

The lease-contracts under consideration contain the following clause: "It (the contract) is also subject to the approval or the revocation of the next Legislature."

It appears, therefore, that the proposed lease-contracts ought not to be approved, unless their provisions commend themselves to the judgment of the majority of the Legislature. It was made known by both the law and the contracts that this was a condition, and the lessees have neither been misled or deceived with regard thereto. If the Legislature are expected to approve lease-contracts by a legislative act, or declaration, when their judgment does not do so, it is a useless and idle ceremony to submit them for approval.

We, therefore, proceed to the consideration of the merits of the lease-contracts, and the policy upon which they are based, impressed with the view that if they are wise they should be approved, or if unwise they should be revoked.

Among other things, it is urged in favor of approving the leases, that they increase the number of convicts to be confined within the walls, above the number heretofore confined, and that this is done, not only without risk of loss by the State, but with an ascertained profit of \$20,000 per year for two years, and \$45,000 per year for thirteen years.

In investigating this question we should consider the following facts:

The penitentiary convicts now number 2278. The annual net increase per year, as shown by the report of the Superintendent for 1882, page 11, is 125 per year; for fifteen years the net increase will be 1875. The total number at the end of the lease contracts, fifteen years, will be 4153, not accounting for increase in population.

The lease contracts require 1400 convicts to be confined within the walls after three years, but under its provisions, at the end of the fifteen years there may be outside 2753.

As above shown there are 2278 convicts at this time, and there will be, at the end of the fifteen-year lease, 4153, so the annual average for the term will be 3215, and we take this number as a basis for calculation.

The average number of convicts during the next fifteen years will be 3215.

Convicts confined in the walls, 1400.

Annual average outside of walls, 1815.

It therefore appears that the provisions of the lease most commended, because it confines an increase number of convicts within the walls, will leave many more on the outside than it will place on the inside.

The lease contracts save the State from risk, and secure \$20,000 profit for two years, and \$45,000 profit for thirteen years.

What could the State realize if it carried out the policy of the lease, if it confined 1400 inside the walls and worked the balance outside for profit.

As above shown, there will be an annual average of convicts outside of the walls, of 1815, for the term. The State can hire them out at an annual profit of \$72 per capita, or for the 1815 the annual profit of \$130,680, and for the fifteen years, a net profit over and above that of the lease, of \$1,335,200. Out of this sum the State would have to pay for the support of the 1400 in the walls (or nearly) whatever sum consumed above their earnings, or whatever they lacked of being self-supporting, if anything.

But we understand the policy of the State and that of the statute to be, that as many convicts shall be confined within the walls "as can be comfortably accommodated and profitably employed," and not that the State shall place 1400 within the walls who cannot be "profitably employed," and consume the profits of those worked outside to support them.

The superintendent, Mr. T. J. Goree, in his very able written address, delivered before the joint committee of the Senate and House of Representatives, on February 14, 1883, furnished some very valuable information relating to penitentiary management.

On page 7 of the printed address he says: "As before stated, it may be safely calculated that the profit from outside labor will be required for some time to support and build up the inside." And on page 8 he says: "There is a very large class of convicts in Texas, as in other Southern States, who, being totally unfit for skilled labor, can never be profitably employed in the walls, and if their labor is to be remunerative, outside employment will be a necessity." Again, on page 10, he says: "While there is a clamor in Texas to place convicts in the walls, because of competition with free labor, there is a clamor in Northern States, where all are in the walls working at skilled labor (or mechanical or manufacturing industries—note), to work them at unskilled labor to prevent competition."

We are bound to realize it as a fact, that farm hands, with no experience or adaptability to mechanical or manufacturing industries, cannot within a year or two, or within a short time, if at all, become sufficiently skilled to earn enough profit to feed, clothe and supervise them. A very large proportion (or about eighty per cent) of the convicts are called short term men, and are unskilled laborers, and are, therefore, of that class that cannot be made self-supporting within the walls, where but few skilled laborers can be.

We estimate that 500 or 600 of convicts now on hand are long term men, and may be utilized within the walls at mechanical and manufacturing pursuit, for self-support.

We do not agree that it is the policy of the State or people to place every convict within the walls, whether he can be made self-supporting or not, and levy taxes and burdens upon the honest and law abiding, and upon the industries of the State to support them in whole or in part.

Therefore, if we base a calculation of the probable results of State resumption, on the theory that say 600 self-supporting convicts (or to become self-supporting), shall be placed in the walls, and the balance hired out in groups, to be secluded from the public and worked at farming, (which is not of that character of labor which injuriously competes with free labor), at a profit of about \$6 per head, we find the following probable result:

Average number of convicts for fifteen years, 3215.

Average number self-supporting in walls, 600.

Average number of unskilled labor on secluded farms, 2615.

Average profit per month at \$6, \$15,690.

Average annual profit, \$188,280.

Total net profit for fifteen years, over and above the total profit of the leases, \$2,199,200, subject to be decreased to aid in supporting 600 in the walls until they become self-supporting.

From the above calculations it seems to us demonstrable that if the State resumes charge of the penitentiaries and convicts, and

keeps within the walls (or nearly) the number required by the lease contracts, to-wit, 1400, the State can earn above the profit of the leases as shown, \$1,335,200, and if it resumes and keeps 600 within the walls, it can earn above the profits of the lease, \$2,199,200.

It is given as an argument against State resumption, that individuals can manage mechanical and manufacturing ventures more economically, and on page 10 of the Superintendent's address, he quotes from reports relating to the prisons of Northern States, and shows that they are not self-supporting under State management. He says: "The convicts in Northern prisons are all within the walls," and as neither under "resumption" nor under the "lease system," is it proposed to put all convicts within the walls, the results given are not pertinent, nor declared by the superintendent to show that the State could not manage outside convicts as successfully as individuals.

We would not oppose the confirmation of the lease simply because the "public notice by advertisement" required by the law (Sec. 70, page 48, acts of 1881,) did not contain the exact proposition for bids, which were finally agreed upon, if the contract made was, in our judgment, a good one for the State, but call attention to the fact that the public notice given invited bids for the penitentiaries and convicts within the walls, and finding that no one would make a reasonable bid under this proposition, the board leased the penitentiaries, and those within and without the walls, without advertisement, notice or competition, as they believed they had secured a good bargain for the State. But by this lease the proceeds of nine hundred convicts, which were at the time bringing the State a net profit of \$6 per month, or of nearly \$65,000 per year, were transferred to the lessees, and they were given the right by the leases to hire out, the first year, an additional number of 678, which would, at \$6 per month, give a profit of the further sum of \$48,816, aggregating \$113,000 for the first year, less \$20,000 paid back as rent by the lessees, and varying from year to year.

It seems to us, in the light of events which have occurred since the board acted, that so wide a variance in the terms and probable profits, might, and probably would have induced competitive bids, if advertised, and resulted in a more profitable contract for the State.

One of the objects of the erection of the East Texas penitentiary, near Rusk, in Cherokee county, among the iron hills, was to develop by convict labor, the iron interest of that locality and section. No compulsory provision is incorporated in the lease contracts compelling this policy to be carried out.

Under either the lease contracts, or under resumption, the State officers and employees are to supervise and guard the convicts; so in this respect, the treatment of the convicts would not be different.

We think that if the policy of placing all convicts within the walls, whether they are self-supporting or not, that fifteen years is too long a time to contract that the largest proportion may remain outside the walls.

We recognize the lessees as being worthy, reliable gentlemen, financially and otherwise, and of humane disposition, and as having a reputation for honorable deportment in business. It is not on account of the persons who have obtained the lease, but on account of the provisions and policy of the contract that we do not approve.

We recapitulate:

We oppose the approval of the lease contracts for the following reasons:

1. We think the State can resume control, and confine as many convicts within the walls as the lessees are required to confine, and cause the outside labor to earn about \$1,335,200 within fifteen years.

2. We think the State can resume and confine about 600 convicts within the walls (long term men), and save, above the profits of the lease contracts, about \$2,000,000 within the fifteen years.

3. We think if the State can save these sums, it ought to do so, and it can be wisely appropriated to schools, public roads, or reduction of taxation, or other public use, and the consummation of such a result is more desirable than to expend it in paying it to induce the confinement of a limited number of convicts within the walls, who are not self-supporting, while the greater portion are worked outside of the prisons.

4. We think the State can better manage its convicts, alter its policies, regulate the character of labor and industries of the convicts, if it remains unembarrassed by the rights and interests of lessees.

5. We think if we ratify the lease, we commit the State to the policy of the lease for fifteen years, for while the law, prior to 1881, provided that any future Legislature might revoke a lease for any cause. The law of 1881 seems to confine the right of approval or rejection to the first Legislature, except for violation of the terms of the contract.

6. If it is to be the policy of the State to withdraw convict labor

from any kind of employment at which free labor can receive a remuneration, that class which cannot support themselves can be placed upon the first-class public roads and bridges of the State as a charge upon the counties for their actual expense only, and this would relieve, to a great extent, the free laboring classes from a heavy tax and burden, and establish a good system of roads.

7. We are opposed to the approval of the leases, for the other reasons more fully set out in the foregoing statements.

JNO. YOUNG GOOCH,
JNO. H. TRAYLOR,
BARNETT GIBBS,
M. Y. RANDOLPH.

Senator Jones, by consent, introduced a bill entitled "An act to amend section 1, chapter 9, of 'an act authorizing the county commissioners' court of the several counties of this State, to issue bonds for the erection of a court house, and to levy a tax to pay for the same,' approved February 11, 1881."

Referred to Judiciary Committee No. 2.

Senator Cooper presented a petition of citizens of Liberty county, protesting against the enlargement of the thirty-first judicial district, by adding any other counties to said district.

Referred to Committee on Judicial Districts.

Senate joint resolution No. 2, "To submit certain amendments to article 7 of the Constitution," was taken up in regular order, read second time, with committee substitute, and substitute ordered printed.

Senator Gooch moved to suspend the regular order of business to take up committee bill for the sale or lease of school lands.

Adopted, and bill taken up.

Senator Gooch moved that 100 copies be ordered printed to-morrow, and that the bill be made the special order for to-morrow morning, after the morning call, and from day to day until disposed of.

Senator Davis moved to amend by substituting Wednesday for to-morrow, for the time of postponement.

Amendment adopted by the following vote:

YEAS—12.

Cooper,	Fleming,	Patton,
Davis,	Fowler,	Perry,
Evans,	Getzendaner,	Pfeuffer,
Farrar,	Johnson of Collin,	Traylor.

NAYS—11.

Buchanan,	Harris,	Peacock,
Chesley,	Houston,	Randolph,
Collins,	Kleberg,	Terrell.
Gooch,	Martin,	

Motion, as amended, adopted, and, on motion of Senator Collins, Senate adjourned until to-morrow morning at 10 o'clock.

THIRTY-FIFTH DAY.

SENATE CHAMBER, }
AUSTIN, TEXAS, February 20, 1883. }

Senate met pursuant to adjournment.

Lieutenant-Governor Martin in the chair.

Roll called. Quorum present.

Prayer by the Chaplain, Rev. Dr. Smoot.

On motion of Senator Davis, the reading of the journal of yesterday was dispensed with, and the same adopted.

Senator Perry presented a petition from the citizens of Milam county, asking that the people be allowed to vote on a constitutional amendment prohibiting the importation, sale or manufacture of intoxicating liquors as a beverage in this State.

Referred to Committee on Constitutional Amendments.

Senator Pfeuffer presented a petition from the citizens